



## Pacific PEER

### Public Employees for Environmental Responsibility

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January 6, 2023

Regional Freedom of Information Officer  
U.S. EPA, Region 9  
75 Hawthorne Street (OPPA-2)  
San Francisco, CA 94105

#### RE: FOIA REQUEST

Dear FOIA Officer:

In an October 2021 “Frequently Asked Questions” and a briefing of the Hunters Point Citizens Advisory Committee, the U.S. Navy revealed that in its radiological field work on Parcel G that approximately “10% of samples indicate strontium-90 levels slightly above the remediation goal.” And that “To remedy this, the Navy worked with regulatory agencies and chemists to refine the laboratory procedure to produce more precise analytical results.”

In its PowerPoint presentation to the Citizens Advisory Committee, the Navy indicated that it would “re-analyze” all strontium-90 samples using an “updated method” designed to produce “more precise and certain results” with the concurrence of “regulatory agencies.” Presumably, those agencies include the U.S. Environmental Protection Agency (EPA).

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information regarding these matters. Specifically, we request the following:

1. Records reflecting the referenced strontium-90 sampling results, including the specific levels of strontium-90 detected and the precise location of each sample;
2. The Parcel G strontium-90 sampling plan and methodology used to take those existing measurements, and the sampling plan and methodology being employed for the “updated method” designed for “more precise and certain results”;
3. Communications related to the Navy’s announced conclusion that re-analysis of these samples was appropriate and/or why the reported results lacked precision or certainty, as well as records reflecting whether EPA agreed with the Navy’s conclusion;
4. Any records describing the “updated method” of analyzing these samples and detailing why this method would yield “more precise and certain results”, including any records



## Pacific PEER

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indicating why this new or revised method might in fact not yield more precise and certain results;

5. All communications with the Navy regarding strontium-90 sampling, including communications concerning the need for and approval of updated methods for analyzing these soil samples;
6. Records reflecting EPA's most recent position on what the background levels of strontium-90 are and should be used in the HPNS cleanup, including any records reflecting whether EPA disagreed with the Navy's purported background values for strontium-90 and if so, why; and
7. Documents created or forwarded describing all possible sources of strontium-90 on Parcel G.

PEER submitted an identical FOIA request dated September 15, 2022. By this request, we seek only records generated after September 15, 2022.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a)(4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees, contractors, or designees.

*2. For the disclosure to be "likely to contribute" to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The documents would explain the basis for conclusions that the Navy has reached (with EPA concurrence) that are displayed in publicly released documents. These documents would enable the public to understand how the Navy and EPA reached conclusions relating to the findings of possibly excess levels of strontium-90 on a portion of HPNS where supposedly no radiological work was performed.



## Pacific PEER

### Public Employees for Environmental Responsibility

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Moreover, these documents would also indicate the extent to which this portion of the HPNS cleanup has been mismanaged or improperly manipulated.

Further, these documents would help the public see the extent to which additional remediation is required or, alternately, the potential extent of ongoing toxic exposure to community residents and on-site workers.

As these topics are the explicit focus of this request, the requested material is directly informative in relation to the request.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

While the disclosure primarily affects the Hunters Point community, the information would enlighten the San Francisco Bay Area, as a whole. More broadly, the subject matter concerns one of the most egregious instances of environmental injustice afflicting a poor and minority community. The latter is a matter of national concern.

In addition, the information would shed light on the effectiveness of Superfund cleanup administration. EPA estimates that approximately 53 million people live within 3 miles of a Superfund remedial site; this is roughly 17% of the U.S. population, including 18% of all children in the U.S. under the age of five. Consequently, the public at large would be concerned about serious maladministration of Superfund.

Further, the requested materials may scientific manipulation of key measures related to the cleanup. The public at large has an interest in the integrity of public programs.

Moreover, as the health of thousands of Hunters Point residents and on-site works may be at risk or adversely impacted, the public is concerned about instances of potentially major public health mortality.

Finally, the fact that the subject matter of this request and these documents are referenced on public websites maintained both by EPA and the Department of the Navy Base Realignment and Closure Program Management Office underlines the wide public interest in the topic.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.



## Pacific PEER

### Public Employees for Environmental Responsibility

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Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, the subject of the Superfund cleanup at HPNS has been the subject of extensive media coverage.

*4. The disclosure must contribute "significantly" to public understanding of government operations or activities.*

The requested records would aid public understanding the HPNS cleanup and possibly similar such cleanups of formerly used Defense sites across the country.

The key issue illustrated for public understanding is the process the Navy has used (and EPA has approved) to calculate strontium-90 contamination. This calculation will directly affect the efficacy and completeness of the cleanup but also cause the potential additional expenditure of billions of dollars of public funds.

The records would also reveal the extent to which past Navy pronouncements about the status of certain portions of the site are untrue or deceptively skewed. In this regard, the nature of the information should shed direct light on the quality, openness, and integrity of EPA oversight of Superfund cleanups.

*5. The extent to which disclosure will serve the requestor's commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

*6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch  
Pacific PEER Director